

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ADJUSTACAM LLC
Plaintiff

v.

AMAZON.COM, INC., *et al.*,
Defendants

Case No. 6:10-cv-329-LED

JURY

**DEFENDANT TARGET CORP.'S ANSWER TO PLAINTIFF'S
THIRD AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Defendant Target Corp. ("Target") hereby files its Answer to the Third Amended Complaint for Patent Infringement ("Complaint"), filed by AdjustaCam LLC ("Plaintiff") in the above-captioned matter, and states as follows:

ANSWER

Parties

1. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1 of the Complaint, and therefore denies them.
2. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the Complaint, and therefore denies them.
3. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 3 of the Complaint, and therefore denies them.
4. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Complaint, and therefore denies them.
5. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 5 of the Complaint, and therefore denies them.

6. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 6 of the Complaint, and therefore denies them.

7. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the Complaint, and therefore denies them.

8. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of the Complaint, and therefore denies them.

9. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of the Complaint, and therefore denies them.

10. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of the Complaint, and therefore denies them.

11. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 11 of the Complaint, and therefore denies them.

12. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 12 of the Complaint, and therefore denies them.

13. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 13 of the Complaint, and therefore denies them.

14. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14 of the Complaint, and therefore denies them.

15. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of the Complaint, and therefore denies them.

16. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of the Complaint, and therefore denies them.

17. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 of the Complaint, and therefore denies them.

18. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of the Complaint, and therefore denies them.

19. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 19 of the Complaint, and therefore denies them.

20. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 20 of the Complaint, and therefore denies them.

21. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 21 of the Complaint, and therefore denies them.

22. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 22 of the Complaint, and therefore denies them.

23. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 of the Complaint, and therefore denies them.

24. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 24 of the Complaint, and therefore denies them.

25. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 25 of the Complaint, and therefore denies them.

26. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 26 of the Complaint, and therefore denies them.

27. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 27 of the Complaint, and therefore denies them.

28. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 28 of the Complaint, and therefore denies them.

29. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 29 of the Complaint, and therefore denies them.

30. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 30 of the Complaint, and therefore denies them.

31. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 31 of the Complaint, and therefore denies them.

32. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 32 of the Complaint, and therefore denies them.

33. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 33 of the Complaint, and therefore denies them.

34. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 34 of the Complaint, and therefore denies them.

35. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 35 of the Complaint, and therefore denies them.

36. Target admits that it has a place of business in Minneapolis, Minnesota.

37. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 37 of the Complaint, and therefore denies them.

38. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 38 of the Complaint, and therefore denies them.

Jurisdiction and Venue

39. Target admits that Plaintiff avers that this is an action arising under the patent laws of the United States, title 35, United States Code. Target admits that this Court has jurisdiction over the subject matter of this action. Each and every other allegation contained in paragraph 39 is denied to the extent that these allegations relate to Target. Target is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 39 of the Complaint with respect to any of the other Defendants in this action, and therefore denies such allegations.

40. Target admits that Plaintiff avers venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b), 1400(b). Each and every other allegation contained in paragraph 40 is denied to the extent that these allegations relate to Target. Target is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 40 of the Complaint with respect to any of the other Defendants in this action, and therefore denies such allegations.

Count I – Infringement of U.S. Patent No. 5,855,343

41. Target admits that the United States Patent No. 5,855,343 (“the ‘343 Patent”) is titled “Camera Clip.” Target admits that, on its face, the ‘343 Patent states that it was filed on March 7, 1997 and that it was issued on January 5, 1999. Each and every other allegation contained in paragraph 41 of the Complaint is denied.

42. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 42 of the Complaint and therefore denies them.

43. Target denies each and every allegation contained in paragraph 43 of the Complaint.

44. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 44 of the Complaint and therefore denies them.

45. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 45 of the Complaint and therefore denies them.

46. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 46 of the Complaint and therefore denies them.

47. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 47 of the Complaint and therefore denies them.

48. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 48 of the Complaint and therefore denies them.

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50. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 50 of the Complaint and therefore denies them.

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54. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 54 of the Complaint and therefore denies them.

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61. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 61 of the Complaint and therefore denies them.

62. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 62 of the Complaint and therefore denies them.

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68. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 68 of the Complaint and therefore denies them.

69. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 69 of the Complaint and therefore denies them.

70. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 70 of the Complaint and therefore denies them.

71. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 71 of the Complaint and therefore denies them.

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87. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 87 of the Complaint and therefore denies them.

88. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 88 of the Complaint and therefore denies them.

89. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 89 of the Complaint and therefore denies them.

90. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 90 of the Complaint and therefore denies them.

91. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 91 of the Complaint and therefore denies them.

92. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 92 of the Complaint and therefore denies them.

93. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 93 of the Complaint and therefore denies them.

94. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 94 of the Complaint and therefore denies them.

95. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 95 of the Complaint and therefore denies them.

96. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 96 of the Complaint and therefore denies them.

97. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 97 of the Complaint and therefore denies them.

98. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 98 of the Complaint and therefore denies them.

99. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 99 of the Complaint and therefore denies them.

100. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 100 of the Complaint and therefore denies them.

101. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 101 of the Complaint and therefore denies them.

102. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 102 of the Complaint and therefore denies them.

103. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 103 of the Complaint and therefore denies them.

104. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 104 of the Complaint and therefore denies them.

105. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 105 of the Complaint and therefore denies them.

106. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 106 of the Complaint and therefore denies them.

107. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 107 of the Complaint and therefore denies them.

108. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 108 of the Complaint and therefore denies them.

109. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 109 of the Complaint and therefore denies them.

110. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 110 of the Complaint and therefore denies them.

111. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 111 of the Complaint and therefore denies them.

112. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 112 of the Complaint and therefore denies them.

113. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 113 of the Complaint and therefore denies them.

114. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 114 of the Complaint and therefore denies them.

115. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 115 of the Complaint and therefore denies them.

116. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 116 of the Complaint and therefore denies them.

117. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 117 of the Complaint and therefore denies them.

118. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 118 of the Complaint and therefore denies them.

119. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 119 of the Complaint and therefore denies them.

120. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 120 of the Complaint and therefore denies them.

121. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 121 of the Complaint and therefore denies them.

122. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 122 of the Complaint and therefore denies them.

123. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 123 of the Complaint and therefore denies them.

124. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 124 of the Complaint and therefore denies them.

125. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 125 of the Complaint and therefore denies them.

126. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 126 of the Complaint and therefore denies them.

127. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 127 of the Complaint and therefore denies them.

128. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 128 of the Complaint and therefore denies them.

129. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 129 of the Complaint and therefore denies them.

130. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 130 of the Complaint and therefore denies them.

131. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 131 of the Complaint and therefore denies them.

132. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 132 of the Complaint and therefore denies them.

133. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 133 of the Complaint and therefore denies them.

134. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 134 of the Complaint and therefore denies them.

135. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 135 of the Complaint and therefore denies them.

136. Target denies each and every allegation contained in paragraph 90 of the Complaint.

137. Target denies each and every allegation contained in paragraph 90 of the Complaint.

138. Target denies each and every allegation contained in paragraph 90 of the Complaint.

139. Target denies each and every allegation contained in paragraph 90 of the Complaint.

140. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 140 of the Complaint and therefore denies them.

141. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 141 of the Complaint and therefore denies them.

142. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 142 of the Complaint and therefore denies them.

143. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 143 of the Complaint and therefore denies them.

144. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 144 of the Complaint and therefore denies them.

145. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 145 of the Complaint and therefore denies them.

146. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 146 of the Complaint and therefore denies them.

147. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 147 of the Complaint and therefore denies them.

148. Target admits that AdjustaCam is not entitled to pre-suit damages in this case. Target denies each and every allegation contained in paragraph 148 of the Complaint to the extent that these allegations relate to Target. Target is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 148 of the Complaint with respect to any of the other Defendants in this action, and therefore denies such allegations.

149. Target denies each and every allegation contained in paragraph 149 of the Complaint to the extent that these allegations relate to Target. Target is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 149 of the Complaint with respect to any of the other Defendants in this action, and therefore denies such allegations.

Prayer for Relief

To the extent a response is required to Plaintiff's prayer for relief, Target admits that Plaintiff seeks various forms of relief in this action. Target denies that Plaintiff is entitled to any relief in this action to the extent such relief relates to Target. Target lacks knowledge or information sufficient to form a belief as to the truth of the allegations that Plaintiff is entitled to relief with respect to any of the other Defendants in this action, and therefore denies such allegations.

Additionally, all allegations of the Complaint not expressly admitted herein are denied.

Jury Demand

Target admits that Plaintiff requests a trial by jury, but denies that Plaintiff is entitled to any relief in this action, including, but not limited to, all relief that Plaintiff requests in its Prayer for Relief.

AFFIRMATIVE AND OTHER DEFENSES

Target asserts the following affirmative and other defenses, and reserves the right to amend its Answer as additional information becomes available and additional defenses become apparent.

First Defense **(No Infringement)**

150. Target does not infringe and has not infringed, either directly, contributorily, or by inducement, any claim of the '343 Patent, either literally or under the doctrine of equivalents.

Second Defense **(Invalidity)**

151. The claims of the '343 Patent are invalid for failure to comply with one or more provisions of the patent laws of the United States of America, Title 35, United States Code, including, but not limited to, 35 U.S.C. §§ 101, 102, 103, and/or 112.

Third Defense **(Limitation on Damages)**

152. Plaintiff's recovery for alleged infringement of the '343 Patent, if any, is limited to alleged infringements committed no more than six years before the filing of the Complaint pursuant to 35 U.S.C. § 286.

Fourth Defense **(Patent Marking and Notice)**

153. Some or all of Plaintiff's claims are limited by failure to comply with the marking and notice requirements of 35 U.S.C. § 287.

Fifth Defense **(Waiver and/or Equitable Estoppel)**

154. Plaintiff's claims are barred by the doctrines of waiver and equitable estoppel.

Sixth Defense
(Laches)

155. Plaintiff's claims are limited by the doctrine of laches.

Seventh Defense
(License, Implied License and/or Patent Exhaustion)

156. Plaintiff's infringement claims are barred by one or more of the doctrines of license, implied license and patent exhaustion.

Eighth Defense
(Unclean Hands)

157. The claims of the '343 Patent are unenforceable under the equitable doctrine of unclean hands.

Ninth Defense
(Prosecution History Estoppel)

158. Plaintiff's claims are barred under the doctrine of prosecution history estoppel.

Tenth Defense
(Government Sales)

159. Plaintiff's claims are limited under 28 U.S.C. § 1498.

Eleventh Defense
(Intervening Rights)

160. Plaintiff's claims are barred or limited under 35 U.S.C. §§ 252, 307(b).

Twelfth Defense
(Adequate Remedy at Law)

161. Although Target denies that Plaintiff is entitled to any relief in this action, Plaintiff's request for an injunction or other equitable relief is barred because Plaintiff has an adequate remedy at law; therefore, no basis exists upon which to grant equitable relief.

Thirteenth Defense
(Other Applicable Defenses)

162. Target expressly reserves the right to assert any other legal or equitable defenses to which it is shown to be entitled.

PRAYER FOR RELIEF ON PLAINTIFF'S COMPLAINT

WHEREFORE, Defendant Target asks the Court to enter judgment granting the following relief:

- A) Denial of Plaintiff's request that Target be found to have infringed the '343 Patent;
- B) Denial of Plaintiff's request that Target be found to commit willful and objectively reckless infringement;
- C) Denial of Plaintiff's request for an injunction against Target as to the '343 Patent;
- D) Denial of Plaintiff's request for damages relating to the '343 Patent;
- E) Denial of Plaintiff's request for enhanced damages;
- F) Denial of Plaintiff's request that the case be declared exceptional pursuant to 35 U.S.C. § 285 as well as denial of Plaintiff's request for attorneys' fees;
- G) Denial of Plaintiff's request for other and further relief;
- H) Dismissal of Plaintiff's claims with prejudice and that Plaintiff take nothing therefrom;
- I) Declaring this case is exceptional and awarding Target reasonable attorneys' fees as provided by 35 U.S.C. § 285; and
- J) An award to Target of such other relief as the Court finds just and proper.

DATED: August 29, 2011

By: /s/ Steven R. Daniels
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batkinson@farneydaniels.com
**ATTORNEYS FOR DEFENDANT
TARGET CORP.**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this notice was served on all counsel of record who have consented to electronic service as this district requires. Local Rule CV-5(a)(3)(A).

/s/ Steven R. Daniels